

JURISDICTION:
General Reference:

SOUTH DAKOTA
South Dakota Codified Laws

Required Use of Safety Belts¹:

Requirements:

I. When a passenger vehicle² is in operation, the driver and all front seat passengers shall wear safety seat belts. §32-38-1
II. The driver of a passenger vehicle² shall secure front seat passengers ≥5 but <18 years old in a safety seat belt. §32-38-1
Secondary Enforcement. Enforcement of these requirements by law enforcement officers shall be accomplished as a secondary action. §32-38-5

Sanctions for Failure to Use or
Require the Use of Safety Belts:

Petty Offense: A "judgment" of **\$20**. §§23-1A-22 & 32-38-5 A violation of these requirements is not a moving violation. §32-38-1

Effect on Civil Liability:

A violation of these requirements does not constitute contributory negligence, comparative negligence or assumption of the risk. And, except for criminal litigation for violations of these requirements, evidence of such violations may not be introduced as evidence in any civil litigation on the issue of injuries or on the issue of mitigation of damages. §32-38-4

Required Use of Child Safety Restraint Systems³:

Requirements:

A driver, when transporting a child <5 years old in a passenger vehicle⁴, shall secure such child in a Federally approved child passenger restraint system. However, if a child <5 years old weighs ≥40 lbs., they may be secured in a safety belt instead of a such a system. §32-37-1

Sanctions for Failure to Require
the Use of Child Restraint Systems:

Petty Offense: A "judgment" of **\$20**. §§23-1A-22 & 32-37-1 Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Child Safety Restraint Systems:
(continued)

Effect on Civil Liability:

A violation of these requirements is not considered as contributory negligence, comparative negligence or assumption of the risk and is not admissible as evidence in the trial of any civil action. §32-37-4

¹**Exemptions.** The requirement to wear a safety seat belt does not apply in the following circumstances: (1) To persons riding in a passenger vehicle manufactured before September 1, 1973; (2) to persons who for medical reasons are unable to wear a safety seat belt; (3) to persons who are riding in a vehicle that does not have to be equipped with safety seat belts under Federal law; (4) to rural carriers of the U.S. Postal Service while on official duties; and, (5) to persons delivering newspapers or periodicals on an assigned home delivery route. §32-38-3

²The term "passenger vehicle" means any self-propelled vehicle intended primary for highway use and includes passenger cars, station wagons, vans, taxicabs, emergency vehicles, motor homes, trucks and pickup trucks. This term does not include motorcycles, motor scooters, motor bicycles, motorized bicycles, passenger buses and school buses. §32-38-2

³**Exemptions.** This requirement does not apply in the following circumstances: (1) to children when all of the available seating positions with seat belts are occupied; and, (2) to children who are riding in passenger cars manufactured before 1966 that have not been equipped with seat belts. §32-37-2

⁴Note: The term "passenger vehicle" is not defined in the child passenger protection law.

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Required Use of Motorcycle Protective Headgear⁵:

Requirements:

I. A person <18 years old may not operate or ride on a motorcycle unless they are wearing a Federally approved protective helmet. §32-20-4
II. A motorcycle operator (regardless of age) shall not allow a passenger <18 years old to ride a motorcycle unless such passenger is wearing a Federally approved protective helmet. §32-20-4
Note: These requirements do not apply to persons who are riding within an enclosed cab. §32-20-4.2

Sanctions for Failure to Use:

Class 2 Misdemeanor: An imprisonment term of not more than **30 days** and/or a fine of not more than **\$200**. §§22-6-2(2) & 32-20-4 Note: The law does not appear to assign points for a violation of these requirements.

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person shall not operate a motorcycle unless either (1) they are wearing an eye protection device or (2) such vehicle is equipped with a windscreen. §32-20-4.1
Note: This requirement does not apply to persons who are riding within an enclosed cab. §32-20-4.2

Sanctions for Failure to Use:

Petty Offense: A "judgment" of **\$20**. §§23-1A-22 & 32-20-4.1 Note: The law does not appear to assign points for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None

Sanctions for a Violation:

Exemptions:

⁵Failure to wear a helmet may be introduced into evidence at a civil action in order to mitigate damages. *Robbins v. Buntrock*, 550 N.W.2d 422 (S.D. 1996)

